

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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JOSEPH A. FERRARA, SR., et al,

Plaintiffs,

-against-

STALLONE TESTING LABORATORIES, INC.,

Defendant.
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MEMORANDUM & ORDER

10-CV-0901 (ENV) (CLP)

VITALIANO, D.J.

Plaintiffs, Trustees and Fiduciaries of the Local 282 Welfare Trust Fund, the Local 282 Pension Trust Fund, and the Local 282 Annuity Trust Fund, filed a complaint against defendant Stallone Testing Laboratories, Inc. on March 1, 2010. After defendant failed to appear or otherwise respond to the Complaint, plaintiff moved for default judgment on June 21, 2010. On August 13, 2010, the Court granted plaintiff's motion for default judgment and referred the action to Magistrate Judge Cheryl L. Pollak to conduct an inquest.

Following a hearing and review of the relevant submissions, Judge Pollak issued a Report and Recommendation ("R&R") on August 5, 2011, recommending that an order be issued directing defendant to submit to an audit of their books and records. If defendant fails to comply, Judge Pollak recommends that judgment be entered against defendant in the amount of \$290,154.28, reflecting \$165,137.59 in unpaid contributions, \$59,421.99 in interest on unpaid and late paid contributions, \$59,421.99 in liquidated damages, \$4,908.20 in attorney's fees, \$564.51 in costs, and \$700.00 in estimated audit fees. No objections to Judge Pollak's R&R have been timely filed.

In reviewing a report and recommendation, the court “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Moreover, in order to accept a magistrate judge’s report and recommendation where no timely objection has been made, the “court need only satisfy itself that there is no clear error on the face of the record.” Urena v. New York, 160 F. Supp.2d 606, 609-10 (S.D.N.Y. 2001) (quoting Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

After careful review of all the evidence in the record below, the Court finds Magistrate Judge Pollak’s R&R to be correct, comprehensive, well-reasoned, and free of any clear error. The Court, therefore, adopts the R&R in its entirety as the opinion of the Court. Accordingly, for the reasons stated in the R&R, defendant is ordered to submit to an audit of its books and records within fourteen days of the date Judgment is entered by the Clerk. If defendant fails to submit to such an audit, plaintiffs are awarded \$165,137.59 in unpaid contributions, \$59,421.99 in interest on unpaid and late paid contributions, \$59,421.99 in liquidated damages, \$4,908.20 in attorney’s fees, \$564.51 in costs, and \$700.00 in estimated audit fees, for a total of \$290,154.28. Plaintiffs will also be entitled to any additional interest that accrues from the date of the R&R until entry of judgment, together with post-judgment interest in accordance with 28 U.S.C. § 1961.

SO ORDERED.

Dated: Brooklyn, New York
September 6, 2011

s/ENV

ERIC N. VITALIANO
U.S.D.J.